reserved for a third class passenger, 12-square feet for a second class passenger and 24 square feet for a first class passenger. In order to evade the rules, the boat-owners gave out that they had only third class accommodation but sub-divided that class into III a, III b and III c. That device enabled them to take the full number of passengers according to third class accommodation and also to recover varying rates of fares. Boat-owners were also extracting more money from the passengers in times of rush. No steps were taken to put a stop to such irregular practices. It would therefore be better to leave the control over boat-traffic with the Police instead of with the Public Works Department.

In conclusion, he advocated the abolition of tolls on motor vehicles used for passenger traffic. Tolls were levied at various stations rendering the cost of motor traffic prohibitive. Owing to competition, the fares on the buses had to be considerably reduced, with the result that the motor transport business was not as paying as it used to be. In the interests of traffic enterprise and the material welfare of the people, the tolls should be abolished. The loss of revenue under this item could easily be made up by a substantial customs duty on petrol and the fee levied for testing motor buses and giving licenses to motor drivers.

DEWAN'S REPLY: Mr. Muhammad Ali, permit me to congratulate you on the business-like attitude and the respect you have shown for the time of this House in not traversing the ground that has been previously covered.

In the matter of Mundakayam-Peermade lorries, upon the goods which they carry you find persons perilously perched. Let me remind you that a prudent man does not indulge in those things and a reckless man who dares to do so does it with his eyes open. We cannot have general legislation because one man jumped under the wheel of a truck and thereby died and because one man 10 years ago had his head knocked off by a tree—I am told he did not do it, but he nearly did it. For such a course of isolated accidents we cannot make a general rule.

In the matter of steam boat traffic, *i. e.*, launch traffic, you have given us a typical instance of the wonderful capacity some people have for circumventing the rules and getting round regulations. Mr. Natesa Aiyar has been in office for the last few years and he and his officers have been trying their best ; and I have no doubt that as the people learn to exact their money's worth they will get better accommodation. However, Mr. Natesa Aiyar has promised to go into the whole matter once more.

34. Administration of Civil Justice.

MR. R. RAMAN PILLAI (*Member, Quilon taluk, Group I*) stated that, although several representations had been made on the subject at previous sessions of the Assembly, the defects pointed out still remained. The only action the Government took on the representations relating to the Judicial Department was to send them to the High Court. Formerly, the representations, the views of the High Court and the orders of Government used to be published in the *Gazette*. The practice had since been stopped. At the twentieth session, the member had brought up the same subject for representation. The then President was the Chief Justice who, as a result of that representation, made several provisions in the *Civil Courts' Guide*.

The attitude of the High Court in regard to representations made in the Assembly was not satisfactory. Formerly, one of the High Court Judges used to be present to hear the representations on judicial matters but the practice had been stopped. If a judge was present, he could clearly understand the spirit of the representations. But when abstracts of the representations alone were sent to the High Court, they were characterised as vague. If the High Court paid proper attention to the defects pointed out, they would have ceased to exist and the public would have been benefited.

Great difficulty was being experienced by the constant and conflicting decisions of the High Court on the same subject or question of law or interpretation of statutes. When the decisions were not uniform, the resulting confusion could easily be imagined. As an instance, the member said that there were four or five conflicting decisions based on Section 17 of the Nayar Regulation, I of 1088, in regard

LIBRARY ARCHIVES Kerala Legislative Assembly

to the partition of *makkattayam* property. Such conflicting decisions led to insecurity of title to property. Any volume of the *Travancore Law Journal* would bear out his statement. The member suggested that, when there was a decision of the High Court on any question of law, that decision should be adhered to, unless it were impossible on account of lapse of time or change of local conditions.

Accumulation of arrears in the High Court and in the subordinate courts was on the increase in spite of the fact that the temporary bench of the High Court, originally sanctioned for one year, had been in existence for about ten years. The policy of establishing additional courts to clear off arrears was not good. Accumulation of arrears was due to the laxity of some of the Judges and Munsiffs. Such of the Judges as did not show proper outturn should be duly punished. The efficient Judges should be given encouragement. Mere seniority should not be the sole criterion for giving promotion to officers. If the above suggestions were kept in view, the arrears would automatically vanish.

As regards the recruitment of judicial officers, the member said that neither all vakils nor all clerks of the High Court were fit to be Munsiffs. Appointments on communal basis were not also satisfactory. The Government should exercise their discretion in appointing judicial officers and only efficient men should be recruited. The appointment of inefficient officers was the main reason for the accumulation of arrears.

There was no principle in making appointments or giving promotions. The policy of appointing fresh men in the higher ranks of the Judicial Department overlooking the claims of deserving men in the department was not good. That tended to discourage officers in the department and naturally made them indifferent to their work. It was also another reason for the accumulation of arrears. The quality and quantity of work turned out by judicial officers should be duly considered in giving promotions.

A third reason for the accumulation of arrears was the rule that 40 contested cases should be finished in a month. Many Munsiffs disposed of cases in haste in view to attain the minimum prescribed. The cases so disposed of were easy ones. Consequently, the difficult cases were always left in arrears. The rule should, therefore, be abrogated and some other means of testing the efficiency of officers and giving them promotion should be devised.

Special attention should be paid to the recruitment of Judges to the High Court. The High Court, being the highest tribunal in the State, only the very best men should be appointed there. Mere seniority should not be the guiding principle. The men selected, whether from the department or outside, should be capable and independent. Similarly, in the appointment of the Chief Justice, the Government should pay special attention. The prestige of the High Court dependend upon the capacity of the Chief Justice. There was no harm in appointing foreigners as Chief Justice if proper men were not available locally. The Chief Justice and the other Judges should not be promoted to other departments. The hope for further promotion would tempt the Judges to be partial to the Government. For the same reason, the practice of appointing Chief Justices as Dewans should also be discontinued.

At this juncture, the Dewan asked the member to quote instances when Chief Justices were appointed as Dewans and state within what period of the establishment of the Sadr Court they took place. The member admitted that it might be within 100 years after the Sadr Court was established and quoted two instances. The Dewan remarked that the appointment of two officers during the course of a hundred years could hardly be called a practice.

Resuming, the member said that the High Court should exercise adequate supervision over the subordinate courts. The annual inspection now conducted by a Judge on tour was not enough.

The jurisdiction of Munsiffs should be enhanced by empowering them to try cases involving amounts up to Rs. 5,000. The existing jurisdiction was defined when there were no Panchayat Courts. As Panchayat Courts had since come into

LIBRARY ARCHIVES Kerala Legislative Assembly

existence, it would be well to enhance the jurisdiction of Munsiffs. The Panchayat Court Judges might also be empowered to try cases involving sums up to Rs. 100. That would enable the Munsiffs to try cases in which the Government are parties and thereby reduce the arrears in the District Courts. More Panchayat Courts should also be established.

Before enhancing the jurisdiction of the Panchayat Court Judges, a committee should be appointed to enquire into and report on the working of the existing courts. The enhancement of jurisdiction need be sanctioned only after considering such a report.

Panchayat Court Judges and Bench Magistrates were appointed without any regard whatever to their qualifications ; and no qualifications had been prescribed. Sometimes even illiterate men had been appointed on the recommendation of the Dewan Peishkars. Some of the men so appointed were not beyond temptation and would stoop to receive bribes. Certain minimum qualifications should be prescribed; and the men selected should also be well-to-do and of some status.

People were put to inconvenience on account of the absence of adhesive stamps of Re. 1 and Rs. 2 denominations. On the decrees issued by the High Court and on *vakkalats* filed before that court and before the Government, people had to affix 4 half-rupee stamps. Rs. 2 stamp-paper was available only in the District Courts. This was inconvenient to the litigants in the mofussil parts. The member therefore prayed that Rs. 2 and Re. 1 labels be introduced.

The Vakils Regulation needed amendments. The number of vakils was on the increase and each court had more vakils than necessary. The maximum number of vakils for each court should be fixed. The Law College might even be closed for a few years. The second grade pleaders should be given permission to plead in District Courts.

In conclusion, the member referred to the President's refusal to grant permission to two members to speak about the proposed registry of lands to the Brooke Bond Company. They were, however, subsequently permitted to speak. The policy of placing limitations on the privileges of the members was not good. It was derogatory to the prestige of the House and the President. On the other hand, it was necessary to enhance the powers of the Assembly by effecting speedy reforms.

Lastly, he congratulated the Government on the publication of the Statement of Action taken on the representations made at the previous session.

DEWAN'S REPLY: Mr. Raman Pillai, that is a very interesting soliloquy to which you treated me and I have no doubt that, if I am allowed to soak it in, within the next few months I shall be able to pick up a hint or two. There is one thing which I must ask you-and you will excuse me if I ask you that—and that is for the Government to try to interfere with the High Court in the exercise of judicial functions. Also as to appointing Chief Justices as Dewans. It is true that there are conflicting decisions. Conflicting decisions exist all the world over and—I suppose-will continue to exist. If not, I am afraid half the work of lawyers would disappear. I am equally afraid I cannot make all the judges think alike.

For the rest, I will go into your representation very carefully at peace and leisure.

35. Judicial Reforms.

MR. V. K. EASO (*Member, Karunagapalli taluk, Group I*) said that the subject of judicial reforms had been dealt with at several previous sessions of the Assembly in some shape or other. Many of the evils existing in the judicial administration could be eradicated if the officers, especially the High Court Judges, were properly selected. The High Court Judges should be men of exceptional ability and exemplary character and the Government should discountenance the idea of communal representation. In support, he quoted Syed Amir Ali's statement that "Judicial appointments are not made to represent either religious communities or political factions." The High Court was the highest tribunal in the State just like the Privy Council for the British Empire. If vacancies arose there, the best available men should be appointed. Preference should, if necessary, be given to District Judges of proved ability and character. If the best men were available only in the bar, the selection should be made from among them. There was no objection to select men even from outside Travancore if proper men could not be found within the State.

LIBRARY ARCHIVES Kerala Legislative Assembly